

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STEVEN CASAUS,

Petitioner,

v.

Civ. No. 20-1269 WJ/KK

TIMOTHY HATCH, et al,

Respondents.

**ORDER**

On July 10, 2023, Petitioner Mr. Casaus filed a “Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody,” (Doc. 28), in which he asserts the same grounds for relief as stated in his original Petition (Doc. 1). Mr. Casaus’ new filing is untimely and procedurally improper because he did not obtain consent or obtain leave to file it. *See* Fed. R. Civ. P. 15(a)(1)(B) (a plaintiff may amend a pleading to which a responsive pleading is required within “21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier”) and (a)(2) (“In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.”); Rules Governing § 2254 Cases, Rule 12 (“The Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.”); *Mayle v. Felix*, 545 U.S. 644, 663 (2005) (applying Fed. R. Civ. P. 15 to habeas proceeding); 28 U.S.C. § 2242 (prescribing that a habeas petition “may be amended . . . as provided in the rules of procedure applicable to civil actions”). Although the Court gave Mr. Casaus leave to file an amended petition should he wish to dismiss certain unexhausted and/or procedurally defaulted claims, his new filing is not an Amended Petition, and it does not comply with the Court’s Order. (Doc. 25).

For these reasons, the Court DIRECTS the Clerk of Court to strike Mr. Casaus' Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (Doc. 28), filed on July 10, 2023, raising the same grounds for relief as those stated in his original Petition.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kirtan Khalsa". The signature is fluid and cursive, with the first name "Kirtan" and last name "Khalsa" clearly distinguishable.

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KIRTAN KHALSA  
UNITED STATES MAGISTRATE JUDGE